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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,896	02/04/2004	Jason Evan Schleifer	50037.206US01	3894

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

FATEHI, PARHAM R

ART UNIT	PAPER NUMBER
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2191

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/771,896	SCHLEIFER ET AL.	
	Examiner	Art Unit	
	Parham (Paul) R. Fatehi	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/04/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 22 are pending.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 11/01/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

3. The disclosure is objected to because of the following informalities:

Page 14, Line 9 – “there”. Suggested: “their”.

Appropriate correction is required.

4. The use of the trademark AIRSYNC has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites, “may be”. Such cited language makes the claim indefinite.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 10 – 16 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter. Claim 10 recites “a computer readable medium.” Having a computer-readable medium without having instructions embodied therein and couple to a computer system to cause a processor to execute the steps as claimed is not statutory. Applicant should duly note computer readable instructions according to the specification page 3, line 29 – page 4, line 5 is a data signal, wherein the data signal is a carrier wave. Such carrier wave is non-statutory.

Therefore, claims 10 – 16 are directed to an abstract idea without a computer system or a processor to form the basis of statutory subject matter under 35 USC 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 10 & 17 are rejected under 35 U.S.C. 102(b) as being taught by Swierk et al (The Roma Personal Metadata Service).

As per Claim 1, Swierk discloses:

- **a method for synchronizing a device with data sources and allowing cross-pollination of the data sources** (Page 408, Par. 5-7 & Page 409, Par. 5, Figure 1, the system can be used for synchronization and transfer of data between sources for synchronization or version management purposes);
- **creating a first data source and a second data source** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, a device can create two data sources such as a desktop and a laptop);
- **connecting the device to a first data source** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, the device can connect to a first data source such as a desktop);
- **synchronizing the device with the first source** (Page 408, Par. 5-7 & Page 409, Par. 5, Figure 1, the device can synchronize with the first source)
- **connecting the device to a second source** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, a device can connect to a second source such as a laptop);
- **and synchronizing the device with the second source, wherein the device may be used to cross-pollinate between the first data source and**

the second data source (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronization and cross-pollination between device and first and second sources).

As per Claim 10, Swierk discloses:

- **A computer-readable medium for cross-pollinating data sources** (Page 413, Par. 2-3, "agent is written in C" and inherently is stored on a computer-readable storage medium. The agent allows for cross-pollinating of data sources as in Page 409, Par. 5 & Figure 1);
- **Creating at least two data sources to synchronize with a device** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for creating a plurality of data sources such as laptop, desktop, kiosk, etc.);
- **Synchronizing the device with the at least two data sources** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronizing and version management and file distribution between device and a plurality of data sources such as laptop, desktop, kiosk, etc.);
- **And cross-pollinating data between the at least two data sources** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronizing, version management, file distribution, and cross-pollination between device and a plurality of data sources such as laptop, desktop, kiosk, etc.).

As per Claim 17, Swierk discloses:

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- **A system for cross-pollinating data sources** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronizing, version management, file distribution, and cross-pollination between device and a plurality of data sources such as laptop, desktop, kiosk, etc.);
- **At least two data sources that may cross-pollinate each other** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronizing, version management, file distribution, and cross-pollination between device and a plurality of data sources such as laptop, desktop, kiosk, etc.);
- **A device that is configured to act a shuttle between the at least two data sources to cross-pollinate, and that is configured to synchronize with the at least two data sources** (Page 408, Par. 5-7 & Page 409, Par. 5, as in Figure 1, system allows for synchronizing, version management, file distribution, and cross-pollination between device and a plurality of data sources such as laptop, desktop, kiosk, etc and acts as a shuttle between the devices).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 2-9, 11-16, & 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swierk in view of Peng (US Patent 6,317,754).

As per Claim 2, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **performing a duplicate detection check to determine when an item has been synchronized.**

Peng however, in an analogous art, discloses:

- a duplicate detection check occurs in the synchronization process to determine if updating is necessary (col. 3, ln. 65 – 67).

Therefore, in view of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Swierk by utilizing a duplicate detection check as disclosed by Peng in order to avoid unnecessarily copying data that is already synchronized and unnecessarily utilizing processing time for copying said data.

As per Claim 3, the teachings of Swierk have been discussed above.

Siwerk does not explicitly disclose:

- **duplicate detection check further comprises performing a property comparison**

Peng however, in an analogous art, discloses:

- a detection check that consists of a comparison of versions on servers (col. 6, ln. 7 – 10).

Therefore, in view of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Swierk to include a property comparison as disclosed by Peng in order to provide a methodological system by which the system can deem whether an update/copy is or is not necessary.

As per Claim 4, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **performing the duplicate detection check further comprises calculating a sync hash value**

Peng however, in an analogous art, discloses:

- identifiers/properties that the comparisons are run on can be assigned to the hash codes which are generated by a one-way hash function (col. 13, ln. 64 – 67).

Therefore, in view of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Swierk to incorporate the values in the conventional manner as disclosed by Peng in order to easily and efficiently manage and reference objects or data in the synchronization system.

As per Claim 5, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **updating the item when the item has already been synchronized**

Peng however, in an analogous art, discloses:

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- **“the unit of transmitted data may be a differential update. This is distinguished from the prior art systems which must transmit the whole item as the unit of transmitted data” (Col 4, ln. 2 – 6).**

Therefore, in view of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Swierk by using the method of updating the item when the item has already been synchronized, as disclosed by Peng in order to speed up the synchronizing process and not waste processing power or time.

As per Claim 6, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **receiving a delete command and performing the delete command, wherein the delete command is selected from a soft delete and a hard delete**

Peng however, in an analogous art, discloses:

- propagated deletes and local deletes (col. 5, ln. 18 – 24).

Therefore, in view of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swierk's system by having a soft delete command and a hard delete command in order to increase functionality of a synchronization system in order to present the user with an option of synchronizing deletes with devices or to delete locally while allowing specific data to be synchronized/updated/copied to specific connected devices.

As per Claim 7, the teachings of Swierk have been discussed above.

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Swierk does not explicitly disclose:

- **restricting cross-pollination between data sources**

Peng however, in an analogous art, discloses:

- may or may not (restricting) allow synchronization between the servers (see Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swierk's system by having a switch that enables restricting of cross-pollination between data sources in order to have an option of not allowing all devices to mirror each other and instead having certain data exist on a certain device and other specific data to exist on the other device (i.e. A children's PC should have children's games while the Home PC should have all the word processing data).

As per Claim 8, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **wherein creating the first data source and the second data source further comprises indicating a data source type and storing an identifier associated with each of the first data source and second data source.**

Peng however, in an analogous art, discloses:

- all sources have identifiers and types (see col. 3, line 18 – 20)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swierk's system to indicate a data source type and

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stored an identifier in order to track the data that should be specific to each data source.

As per Claim 9, the teachings of Swierk have been discussed above.

Swierk does not explicitly disclose:

- **synchronizing the device with the first data source may use a first synchronization protocol and synchronizing the device with the second protocol may use a second synchronization protocol**

Peng however, in an analogous art, discloses:

- each of the synchronizers users a different type of communications transport and protocol (Col. 14, ln. 3 – 9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swierk's system by using a different type of synchronization protocol for each data source in order to suit the system with versatility in data transmissions.

As per Claim 12, it is a system claim with same limitations as method claim 3 and is rejected under the same reasons.

As per Claims 13 & 20, they are system claims with the same limitations as the method claim 6 and are rejected under the same reasons.

As per Claims 14 & 21, they are system claims with the same limitations as the method claim 7 and is rejected under the same reasons.

As per Claim 15, it is a system claim with the same limitations as the method claim 8 and is therefore rejected under the same reasons.

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As per Claim 16 & 22, it is a system claim with the same limitations as the method claim 9 and is therefore rejected under the same reasons.

As per Claim 18, it is a system claim with the same limitations as the method claim 11 and is therefore rejected under the same reasons.

As per Claim 19, it is a system claim with the same limitations as the method claim 4 and is therefore rejected under the same reasons.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Parham (Paul) R. Fatehi whose telephone number is 571-272-1407. The examiner can normally be reached on M-Th 7:30AM-5PM EST, off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chameli Das can be reached on (571)272-3696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Fatehi
Examiner
AU 2191

[Signature]
12/07/06

[Signature]
JEAN M. CORNELIUS
PATENT EXAMINER
Art Unit 2162